

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1697.01
COMPLAINT INVESTIGATOR: Steve Starbuck
DATE OF COMPLAINT: February 22, 2001
DATE OF REPORT: March 22, 2001
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: May 3, 2001

COMPLAINT ISSUES:

Whether the Centerville-Abington Community Schools and the East Central Special Services District violated:

511 IAC 7-25-5(c) with regard to the school's alleged failure, within 10 business days of the date the school received the parent's request for an independent educational evaluation (IEE), to notify the parent in writing that the IEE would be at public expense or to initiate a due process hearing to demonstrate that the school's evaluation was appropriate.

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written, specifically:

- a. failing to ensure assistance from the resource room teacher in a separate setting;
- b. failing to utilize the "therapy ball" in the classroom; and
- c. failing to provide progress reports at the intervals indicated on the IEP.

511 IAC 7-27-7(b) and 511 IAC 7-17-72 with regard to the school's alleged failure to ensure the student's teacher of record:

- a. regularly monitored the implementation of the student's IEP;
- b. provided progress reports to the parent; and
- c. ensured that supplementary aids and services are provided in accordance with the IEP.

FINDINGS OF FACT:

1. The student is nine years old, attends the third grade, and has been determined eligible for special education due to a learning disability.
2. The student received an educational evaluation by the school on December 13, 2000. The parent states she sent a letter around February 2, 2001, to the special education planning district requesting that an independent evaluation be completed. The parent provided the Division with a copy of this letter. The parent also supplied a copy of a Case Conference Notification Letter dated February 6, 2001, where it was listed that one of the reasons for convening the case conference committee (CCC) meeting was to discuss the parent's request for additional testing. The director states the special education planning district received the parent's request for an independent evaluation on February 11, 2001. The assistant director of the planning district mailed a list of psychologists who might be willing to test the student to the parent on March 1, 2001. A statement that the independent educational evaluation would be at public expense was not included with the list mailed to the parent. The school did not initiate a due process hearing to demonstrate

- the appropriateness of the school's evaluation within ten business days of the date the public agency received the parent's request for an independent evaluation.
3. The student's IEP dated May 4, 2000, reflects the student is to receive "learning disabled services" three times per week for 30 minutes each time. The IEP indicates the service will be provided to the student in a separate setting. It is the parent's and the director's understanding that learning disabled services means the student will receive instructional assistance from the teacher who instructs students with learning disabilities. In written responses from the director and the student's teacher licensed in the area of learning disabilities, the student has been receiving the appropriate amount of instructional assistance, but has received the service in a general education classroom and not in a separate setting as specified in the May 4th IEP.
 4. The parent states the therapy ball has not been utilized for the student in the general education classroom. Under the heading, *Specific Accommodations/Modifications for General Education*, in the IEP dated May 4, 2000, it states: "therapy ball, proofreading reminder." There is no explanation as to the purpose of the therapy ball, nor is there any information as to when or how the therapy ball is to be used with the student. The IEP gives no direction to the staff or parents about how the therapy ball serves as either an accommodation or a modification. The director reports in her written response that the therapy ball was included in the student's IEP as a tool for helping to calm the student in the general education classroom. The student's occupational therapist submitted a written statement which indicates the therapy ball is used as an alternative seating device in the classroom when students are required to sit in their seats for an extended period of time. The director states the therapy ball has been made available to the student; however, the student has not wanted to use it. The student's classroom teacher submitted a signed written statement that reflects the student is content with sitting in a regular student size chair and has been successful with using this type of seating. The teacher reports the student has never requested use of the therapy ball.
 5. The IEP dated May 4, 2000, indicates that copies of the goal and objectives sheets, with progress noted, shall be provided to the parent every nine weeks. In the IEP there are three annual goals listed for the student on three separate sheets of paper. The director documented that the parent received a progress report concerning the student's ability to maintain grade level reading skills for the first grading period, but not for the second grading period. The director acknowledges that the parent was not provided with a progress report for this annual goal for the second grading period. No documentation was supplied to verify that the parent was provided with progress reports for the other two annual goals.

CONCLUSIONS:

1. Finding of Fact #2 indicates the school failed either to notify the parent in writing that the independent educational evaluation would be at public expense, or to initiate a due process hearing to demonstrate that the school's evaluation was appropriate within 10 business days of the date the school received the parent's request for an independent educational evaluation. Therefore, a violation of 511 IAC 7-25-5(c) is found.
2. Finding of Fact #3 reflects that, although the school provided the student with instructional assistance from the teacher licensed in the area of learning disabilities, the service was not provided in a separate setting as specified in the IEP dated May 4, 2000. Therefore, a violation of 511 IAC 7-27-7(a) is found.
3. Finding of Fact #4 indicates the school made available to the student a therapy ball for use in the general education classroom, but did not specify in the IEP when, where, for how long, or how often the therapy ball should be used. Without direction on how and when the therapy ball is to be used with the student, the school cannot document that this component of the IEP has been

implemented as required. Therefore, a violation of 511 IAC 7-27-7(a) is found.

4. Finding of Fact #5 reflects the school failed to provide the parent with goal and objective sheets, with the student's progress noted, every nine weeks. Therefore, a violation of 511 IAC 7-27-7(a) is found.
5. Findings of Fact #3, #4, and #5 indicate the school failed to ensure the student's teacher of record regularly monitored the implementation of the student's IEP. Therefore, violations of 511 IAC 7-27-7(b) and 511 IAC 7-17-72 are found.
6. Finding of Fact #5 reflects the school failed to ensure the student's teacher of record provided progress reports to the parent. Therefore, violations of 511 IAC 7-27-7(b) and 511 IAC 7-17-72 are found.
7. Findings of Fact #3 and #4 indicate the school failed to ensure the student's teacher of record ensured that supplementary aids and services were provided in accordance with the IEP. Therefore, violations of 511 IAC 7-27-7(b) and 511 IAC 7-17-72 are found.

The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Centerville-Abington Community Schools and the East Central Special Services District shall:

1. Inservice all appropriate personnel as to the requirements specified in 511 IAC 7-17-72, 511 IAC 7-25-5(c), 511 IAC 7-27-7(a), and 511 IAC 7-27-7(b). Submit documentation to the Division that all inservice training has been completed no later than April 27, 2001. The documentation should include a list or an agenda of all issues discussed, any handouts that were distributed, a list of attendees by name and title.
2. Notify the parent in writing no later than April 10, 2001, that the independent educational evaluation will be at public expense, or initiate a due process hearing no later than April 10, 2001, to demonstrate that the school's evaluation was appropriate. If it is determined that the evaluation will be completed at public expense, submit to the Division no later than April 17, 2001, a copy of the notification that was provided to the parent.
3. Convene a CCC meeting to address how and when the therapy ball is to be used. The CCC Report/IEP must contain sufficient detail so that staff and parents understand how this accommodation/modification will be used with the Student. Submit to the Division a copy of the revised IEP/Case Conference Summary Report no later than April 27, 2001.
4. Provide the parent with progress reports for all annual goals that reflect the student's progress made toward annual goals at the first and second grading periods of the 2000-2001 school year. Submit to the Division no later than April 27, 2001, copies of the progress reports provided to the parent for the 2000-2001 school year.
5. Submit to the Division no later than April 27, 2001, a letter of assurance signed by the student's teacher of record and the director that specifies all IEPs developed for the student will be implemented as written.

